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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/890,907	11/16/2001	Richard F. Fibiger	44114	9488

22515 7590 12/17/2003

THE DOW CHEMICAL COMPANY  
INTELLECTUAL PROPERTY SECTION  
2301 N BRAZOSPORT BLVD  
FREEPORT, TX 77541-3257

EXAMINER
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KUHNS, ALLAN R

ART UNIT	PAPER NUMBER
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1732

DATE MAILED: 12/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/890,907Applicant(s)  
FIBIGER ET AL.Examiner  
KUHN SGroup Art Unit  
1732

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE (3) MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

☒ Responsive to communication(s) filed on OCT. 17, 2003

☒ This action is **FINAL**.

- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-5 is/are pending in the application.
- Of the above claim(s) 2 & 5 is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1 AND 3-4 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement

## Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some\* ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_ ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892 ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948 ☐ Other \_\_\_\_\_

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1.The examiner is maintaining the request initially made in the previous Office action that the steps of the "SCORIM process" be recited. If applicants object to placing these steps in claim 1, it is suggested that the steps be inserted into the specification. The examiner's goal here is to create a "stand alone" document which does not require referral to patents disclosed at page 9, line 27 of the specification to learn the details of the "SCORIM process". Applicants' arguments concerning a species election in the response filed October 17, 2003 are noted by the examiner, but they are not understood by the examiner, given that the "SCORIM process" is recited in claim 1.

2.The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3.Claims 1 and 3-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pinnavaia et al. (5,801,216) as set forth in the previous Office action.

4.Applicants' arguments filed October 17, 2003 have been fully considered but they are not persuasive. Applicants argue that the process of Pinnavaia involves a solid state deformation process and does not involve flowing the polymer as it must be in a liquid state in order to flow. But it is the examiner's position that the claims are still readable on the reference because an accepted definition of "flow" is "to move with a continual shifting of the component particles". See, for example, THE AMERICAN HERITAGE DICTIONARY (second college edition 1982).

Applicants also argue that since the strain is applied only to the surface of the resin, only the planes of the silicates on the surface of the resin are aligned such that more than half of the silicates of Pinnavaia are not aligned to the degree required by the instant claims. The examiner disagrees with applicants' interpretation of this reference because Pinnavaia et al. state at column 10, beginning at line 27 only that strain is applied in a direction parallel to the surface. Pinnavaia et al. do not state that only the planes of the silicates on the surface are aligned.

**5.THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6.Any inquiry concerning this communication or earlier communications from the examiner should be directed to Allan Kuhns whose telephone number is 703-308-3462. The examiner can normally be reached on Monday to Thursday from 7:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Colaianni, can be reached on (703) 305-5493. The fax phone

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number for the organization where this application or proceeding is assigned is 703 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308-0661.

*Allan R. Kuhns*

ALLAN R. KUHN  
PRIMARY EXAMINER

*AU 1732*

*12-16-03*